

LAW AND PUBLIC SAFETY

NEW JERSEY RACING COMMISSION

Harness Racing

Requirements Concerning the Wearing of Advertisement Material

Proposed New Rule: N.J.A.C. 13:71-19.7

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director

Calendar Reference: See Summary below for explanation of exception to calendar requirement

Proposal Number: PRN 2007-241

Submit written comments by September 14, 2007 to:

Frank Zanzuccki, Executive Director
New Jersey Racing Commission
P.O. Box 088, 140 East Front Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rule provides the permitholders with the authority to regulate advertising on the attire of drivers with the approval of the Commission. Approval of the Commission will be granted provided the proposed advertisement does not present a safety concern to race participants or undermine the traditions of the turf. The traditions of the turf are those traditions which preserve a genteel, pristine appearance and atmosphere at the racetracks and that do not lend themselves to overcommercialization. According to the provisions of the proposed rule, race track operators,

otherwise know as permitholders, must submit an application to the Racing Commission setting forth the restrictions imposed. Upon receipt of an application, the Racing Commission will evaluate the restrictions to determine if they promote the safety of the races or preserve the traditions of the turf. In arriving at this determination, the Racing Commission will review the justification submitted by the permitholders explaining how the restrictions achieve the intended purpose of the rule. As an example of preserving the traditions of the turf, permitholders may limit the size and location of the advertising material. Drivers must wear racing colors (shirts), as part of their racing attire or uniform, which represent the colors of each driver. The racing colors distinguish drivers from one another and allow patrons to more easily identify horses during the race.

Accordingly, permitholders could restrict advertisement to the Drivers pants or boots and further limit the number and size of the advertisements.

The Racing Commission provides for a 60-day comment period on this notice of proposal. Therefore, this proposal is exempt from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rule will have a positive social impact by placing restrictions on advertisement material that undermines the safety of the racing participants and traditions of the turf. The safety of all racing participants is essential to the running of races for the participants themselves, the permitholders and the patrons. Preserving the traditions of the turf by ensuring

that advertising material does not interfere with the genteel pristine appearance and atmosphere of racetracks or its over commercialization is also an important factor to the success of racing.

Economic Impact

The proposed new rule may have a positive or negative economic impact on drivers, dependant on the ability or inability to display advertisements on their clothing. Where permitted to display an advertisement on their clothing consistent with the rule, a driver may experience a positive economic impact in those situations where financial compensation to display such advertisements is present. Conversely, where not permitted to display a particular advertisement on their clothing consistent with the rule, a negative economic impact would be experienced in the situation where compensation to the driver was involved. Although an economic impact may also be experienced by the companies who are the subject of the advertisements, any impact is impossible to project because it is unknown whether the ability or inability to advertise through advertisement displays on driver's clothing will increase or decrease the related business and profits to the companies. A part of the rule will result in a prohibition of advertisements on driver's clothing that could negatively impact the safety of race participants, the likelihood of related injuries will be reduced or eliminated. Accordingly, medical and insurance costs to the drivers and permitholders should not increase through adoption of this proposed rule. To this extent, the rule will have a positive economic impact.

Federal Standards Statement

A Federal standards analysis is not necessary as there are no Federal standards or requirements applicable to the proposed new rule. The Racing Commission proposes this rule pursuant to the rulemaking authority set forth in N. J. S. A. 5:5-30.

Jobs Impact

The proposed new rule will not result in the generation or loss of jobs.

Agriculture Industry Impact

The proposed new rule will have no impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not required because the proposed new rule does not impose any reporting, recordkeeping or compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The New Jersey racetracks affected by the proposed rule are not small businesses, as each employs more than 100 employees and are, therefore, not small businesses. As indicated above, the proposed rule does not impose any restrictions on drivers.

Smart Growth Impact

The proposed rule will not impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rule follows:

13:71-19.7 Requirements concerning the wearing of advertisement material

(a) A permitholder may impose restrictions on advertising on driver apparel provided the permitholder submits any such restrictions by way of application to the New Jersey Racing Commission for approval. The restrictions must be implemented for one of the following purposes:

1. To preserve the traditions of the turf. Traditions of the turf means those traditions which preserve a genteel, pristine appearance and atmosphere at the racetracks and that do not lend themselves to over commercialization; or
2. To promote the safety of race participants.

Frank Zanzuccki, Executive Director